

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

ISMIR T.,¹

Plaintiff,

5:21-cv-00752 (BKS/CFH)

v.

KILOLO KIJAKAZI, Acting Commissioner of Social Security,

Defendant.

Appearances:

For Plaintiff:

Howard D. Olinsky
Olinsky Law Group
250 South Clinton Street, Suite 210
Syracuse, NY 13202

For Defendant:

Carla B. Freedman, United States Attorney
Luis Pere, Special Assistant United States Attorney
Social Security Administration
J.F.K. Federal Building, Room 625
15 New Sudbury Street
Boston, MA 02203

Hon. Brenda K. Sannes, Chief United States District Judge:

MEMORANDUM-DECISION AND ORDER

Plaintiff Ismir T. filed this action under 42 U.S.C. §§ 405(g), 1383(c)(3) seeking review of a decision by the Commissioner of Social Security (the “Commissioner”) finding that Plaintiff was not disabled and ineligible for the disability insurance benefits for which he applied. (Dkt. No. 1). This matter was referred to United States Magistrate Judge Christian F. Hummel for a

¹ In accordance with the local practice of this Court, Plaintiff’s last name has been abbreviated to protect his privacy.

Report and Recommendation. (Dkt. No. 4); N.D.N.Y. L.R. 72.3(d). On August 31, 2022, after reviewing the parties' briefs and the Administrative Record, (Dkt. Nos. 10, 15, 18), Magistrate Judge Hummel issued a Report-Recommendation recommending that the Commissioner's decision be reversed and that this matter be remanded to the Commissioner for further proceedings. (Dkt. No. 19). Magistrate Judge Hummel advised the parties that under 28 U.S.C. § 636(b)(1), they had fourteen days within which to file written objections to the report, and that the failure to object to the report within fourteen days would preclude appellate review. (*Id.* at 47–48). Neither party filed an objection to the Report-Recommendation.

As no objection to the Report-Recommendation has been filed, and the time for filing objections has expired, the Court reviews the Report-Recommendation for clear error. *See Petersen v. Astrue*, 2 F. Supp. 3d 223, 228–29 (N.D.N.Y. 2012); Fed. R. Civ. P. 72(b) advisory committee's note to 1983 amendment. Having reviewed the Report-Recommendation for clear error and found none, the Court adopts the Report-Recommendation in its entirety.

For these reasons, it is hereby

ORDERED that Magistrate Judge Hummel's Report-Recommendation (Dkt. No. 19) is **ADOPTED**; and it is further

ORDERED that this matter is **REVERSED** and **REMANDED** pursuant to sentence four of 42 U.S.C. § 405(g), to the Commissioner for further proceedings consistent with the Report-Recommendation.

IT IS SO ORDERED.

Dated: September 19, 2022
Syracuse, New York


Brenda K. Sannes
Chief U.S. District Judge